

Paragon Paint & Varnish Corporation and Local 8-406, Oil, Chemical and Atomic Workers International Union, AFL-CIO. Cases 29-CA-17710, 29-CA-17801, 29-CA-17835, 29-CA-17889, 29-CA-17926, and 29-CA-17966

June 4, 1997

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN GOULD AND MEMBERS FOX
AND HIGGINS

On May 31, 1995, the National Labor Relations Board issued its Decision and Order¹ finding that the Respondent violated Section 8(a)(5), (3), and (1) of the National Labor Relations Act. The Respondent filed a petition for review with the United States Court of Appeals for the District of Columbia Circuit. On June 11, 1996, the court issued its decision.² The court enforced all the violations but disapproved of the Board's substitution of Oil, Chemical and Atomic Workers Local 8-406 for Local 8-712 as the employees' bargaining representative pursuant to a merger election. The court noted that the merger election occurred without secret voting. The court therefore advised the Board that it may treat the pertinent order as "running in favor of Local 8-712 or . . . permit Local 8-406 to stand in for Local 8-712 based on the result of a new merger vote that the Board finds to have been conducted in compliance with minimum due process requirements."

On December 6, 1996, the Board advised the parties that it had accepted the court's remand and invited statements of position. No party filed a statement of position.

We have considered the original decision and the record in light of the court's decision. We accept the court's decision as the law of the case and issue our order reaffirming the Respondent's violations of Section 8(a)(5) and (1) of the Act in the manner prescribed by the court.

ORDER

The National Labor Relations Board orders that the Respondent, Paragon Paint & Varnish Corporation, Long Island City, New York, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing to give its attorney the required authority with which to bargain about grievances with either Local 8-712 or Local 8-406 (based on the result of a new merger vote).

(b) Reducing the frequency with which it paid its employees without prior negotiations with either Local

8-712 or Local 8-406 (based on the result of a new merger vote).

(c) Unilaterally refusing to grant access to the facility to either Local 8-712 or Local 8-406 (based on the result of a new merger vote).

(d) Failing to provide either Local 8-712 or Local 8-406 (based on the result of a new merger vote) with information that it requested regarding the medical insurance that it provided and the employees that it employed.

(e) In any other manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, promptly provide either Local 8-712 or Local 8-406 (based on the result of a new merger vote) with the information that it requested regarding the medical insurance that it provided to the employees and the costs thereof and the names, job titles, and salaries of all of the Respondent's nonsupervisory employees.

(b) On request, promptly provide either Local 8-712 or Local 8-406 (based on the result of a new merger vote) with access to its facility.

(c) Within 14 days after service by the Region, post at its facility in Long Island City, New York, copies of the attached notice marked "Appendix."³ Copies of the notice, on forms provided by the Regional Director for Region 29, after being signed by Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 7, 1993.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

³ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

¹ 317 NLRB 747.

² *Paragon Paint & Varnish Corp. v. NLRB*, 90 F.3d 591 (1996) (unpublished decision).

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

Section 7 of the Act gives employees these rights.

- To organize
- To form, join, or assist any union
- To bargain collectively through representatives of their own choice
- To act together for other mutual aid or protection
- To choose not to engage in any of these protected concerted activities.

WE WILL NOT, without prior negotiation with either Local 8-712 or Local 8-406 (based on the result of a new merger vote), reduce the frequency with which we pay our employees, affect either Local 8-712's or Local 8-406's (based on the result of a new merger vote), access to our facility, or require our employees

to use the bathroom to change into, and out from, their work clothes.

WE WILL NOT refuse to give either Local 8-712 or Local 8-406 (based on the result of a new merger vote) requested information that is necessary and relevant to it as the collective-bargaining representative of our employees.

WE WILL NOT fail to give our attorney adequate authority with which to deal with either Local 8-712 or Local 8-406 (based on the result of a new merger vote).

WE WILL NOT in any other manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, provide either Local 8-712 or Local 8-406 (based on the result of a new merger vote) with the cost and type of medical insurance coverage that we provide for our employees, and with the names, job titles, and salaries of all of our non-supervisory employees.

WE WILL, on request, allow either Local 8-712 or Local 8-406 (based on the result of a new merger vote) to visit our facility.

PARAGON PAINT & VARNISH CORPORATION